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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12 EBAY INC.,

13 Plaintiff,

14 v.

15 DIGITAL POINT SOLUTIONS, INC.,
16 SHAWN HOGAN, KESSLER'S
17 FLYING CIRCUS, THUNDERWOOD
18 HOLDINGS, INC., TODD DUNNING,
BRIAN DUNNING,
BRIANDUNNING.COM, and DOES 1-

19 Defendants.
20
21

Case No. 08-4052 (PVT)

**WAIVER OF SERVICE OF
SUMMONS**

22 TO: David Eberhart
23 Sharon Bunzel
24 O'Melveny & Myers LLP
Attorneys for eBay Inc.
25

26 I have received your request to waive service of summons in this action
27 along with a copy of the Complaint, two copies of this waiver form, and a prepaid means
28 of returning one signed copy of the form to you.

WAIVER OF SERVICE OF SUMMONS

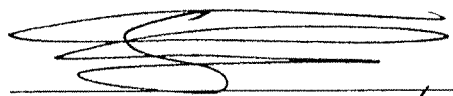
1 I, or the entity I represent, agree to save the expense of serving a summons
2 and Complaint in this case.

3 I understand that I, or the entity I represent, will keep all defenses or
4 objections to the lawsuit, the Court's jurisdiction, and the venue of the action, but that I
5 waive any objections to the absence of a summons or of service.

6 I also understand that I, or the entity I represent, must file and serve an
7 answer or a motion under Rule 12 within 60 days from August 27, 2008, the date when
8 this request was sent. If I fail to do so, a default judgment will be entered against me or
9 the entity I represent.

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12 Date:

9/30/08

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Signature
Shawn Hogan for
Digital Point Solutions, Inc.
8465 Regents Road, Apt. 448
San Diego, CA 92122
Phone:

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to
cooperate in saving unnecessary expenses of serving a summons and complaint. A
defendant who is located in the United States and who fails to return a signed waiver of
service requested by plaintiff located in the United States will be required to pay the
expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that
it has been brought in an improper venue, or that the court has no jurisdiction over this
matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other
defenses and objections, but you cannot object to the absence of a summons or of service.

1 If you waive service then you must, within the time specified on the waiver
2 form, serve an answer or motion under Rule 12 on the plaintiff and file a copy with the
3 court. By signing and returning the waiver form, you are allowed more time to respond
4 than if a summons had been served.